

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rule I pertaining to the value before)
reappraisal for agricultural land)

TO: All Concerned Persons

1. On November 6, 2014, the Department of Revenue published MAR Notice No. 42-2-925 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 2768 of the 2014 Montana Administrative Register, Issue Number 21.

2. On December 2, 2014, a public hearing was held to consider the proposed new rule. No members of the public attended the hearing. The department received written comments from Robert Story, Executive Director of the Montana Taxpayers Association.

3. The department has adopted New Rule I (42.20.621) as proposed.

4. The department has thoroughly considered the comments received. A summary of the comments received and the department's response is as follows:

COMMENT 1: Robert Story, Executive Director, Montana Taxpayers Association (Montax), commented that Montax appreciates the director and the department staff's efforts to address some of the assessment issues that arise with changes to agricultural land use. He explained that the calculation of value before reappraisal (VBR) was a contentious issue in the 2009 reappraisal cycle because many parcels had new VBRs calculated, in part due to the change in the assessment procedures implemented in that cycle. He stated that the number of potentially impacted parcels for the new cycle appears to be significantly lower this time.

Mr. Story further commented that the main concern with the implementation of the old VBR rules was the lack of allowance for inadvertent or small changes in use that had little impact on the assessed value of the parcel or unit. There is still some concern with present procedures that rely on aerial mapping to delineate boundaries because the technology employed does not always generate the same acreage of a given field or parcel, which can cause the generation of a VBR. He thought that the department's proposed rules allow some flexibility in dealing with small or inadvertent changes and the variances that occur in the GPS data that would not result in a calculated VBR, which he supports.

Mr. Story stated that the average taxpayer who has a calculated VBR on a parcel of their property does not even realize a new baseline value has been created. They compare their old assessment to their new one and they don't see the impact of reappraisal. They do not realize how much of their new value is not

phased-in. They are surprised when the new tax bill arrives and it is higher than expected.

There also remains a concern about the impact of creating a VBR on a whole parcel when there is an intentional change to a small portion of that parcel only and no new land is created. The calculation of a VBR and loss of phase in may increase the tax liability for that parcel significantly. Mr. Story further stated that it would make sense that the VBR should be the original value of the total parcel, plus the net change in the value of portion of the parcel on which the use was changed. He provided an example and stated he thinks the VBR will be the same for the parcel if the department revalues the whole parcel, or if the department revalues only the reallocated portion of the parcel, but asked the department to confirm this for him.

RESPONSE 1: The department appreciates Mr. Story's comments. The proposed rule requires a dedicated agricultural land use change before a classification change will occur. Inadvertent changes to land use or boundary changes due to the department's use of Geographic Information System (GIS) technology are not considered dedicated agricultural land use changes and a value before reappraisal (VBR) will not be calculated.

Mr. Story is correct. The 2009 assessment notice did not have a VBR column. The assessment notice only contained the market/productivity value as of January 1, 2002 and July 1, 2008, respectively. The assessment notices have since been revised and now include a column detailing the VBR for each property classification. The property taxpayer will be able to see if the VBR has changed and how much it has changed, due to reappraisal.

In response to calculating a VBR for the whole parcel versus calculating a VBR for only the portion of the parcel that has changed, there are many moving parts in the valuation formula that could impact a calculated VBR. Depending upon the agricultural sub-classification, there are several changes that are occurring in 2015, that would show a difference in a calculated VBR, for instance: a regional adjustment for summer fallow land; the change in the size of the animal unit from 1,000 to a 1,200 pound cow/calf pair will show some difference in grazing fees; updated costs for irrigated land; the change in using air dried herbage for non-irrigated hay land; productivity updates; and GIS updates. Generally speaking, however, there should not be a substantial difference in a calculated VBR for the whole parcel versus a calculated VBR for only the portion of the parcel that has changed its agricultural sub-classification.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State December 15, 2014.